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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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HOI L. WAN, :  
  
Plaintiff, :  
  
- against - : 05 Civ. 4295 (CBM) (ECF)  
  
UNITED STATES POSTAL SERVICE : DEFENDANT'S RULE 56.1  
and JOHN E. POTTER, Postmaster : STATEMENT  
General of UNITED STATES :  
POSTAL SERVICE,  
:  
Defendants.  
----- x

Pursuant to Civil Rule 56.1 of the Local Rules of the  
United States District Court for the Southern District of New  
York, defendant John E. Potter states that there is no genuine  
issue to be tried with respect to the following material facts:

1. On March 14, 2004, Plaintiff sought EEO  
counseling, alleging retaliation on the basis of his filing the  
Wan I Complaint. (See Wan II Compl. ¶ 10); (Yankwitt Decl. Ex.  
B).

2. On May 20, 2004, Plaintiff received a Notice of  
Right to File Individual Complaint from the USPS EEO. (See  
Sturman Decl. ¶ 14).

3. On June 4, 2004, Plaintiff filed a formal EEO

complaint alleging retaliation for protected activities under Title VII. (Id. at ¶ 15).

4. The USPS Office of EEO Compliance and Appeals made a Final Agency Decision on the merits of this administrative complaint, finding that there was no retaliation, on December 6, 2004. (Id. at ¶ 16; Yankwitt Decl. Ex. D).

5. Plaintiff did not appeal this decision with the EEOC's OFO. (Id. at ¶ 17). Instead, Plaintiff waited until April 29, 2005, 144 days later, to file a complaint in Federal court alleging retaliation for activities protected under Title VII. (See Wan II Compl. at 1); (Yankwitt Decl. Ex. B).

By submitting this statement, defendant does not waive its right to contend that any of the above-referenced facts are not material to the present action.

Dated: New York, New York  
June 28, 2005

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